

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

MARIA RAMIREZ,

Plaintiff,

v.

AEROTEK, INC., and SCHNEIDER
ELECTRIC USA, INC. dba SCHNEIDER
ELECTRIC
Defendant.

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CIVIL ACTION NO.: 3:19-cv-283

DEFENDANT’S NOTICE OF REMOVAL

Defendant Aerotek, Inc. files this Notice of Removal from state court in accordance with 28 U.S.C. §§ 1331, 1332, 1367, 1441, and 1446, and, in support thereof, respectfully shows the following:

I. NOTICE OF REMOVAL

1. With the consent of co-Defendant Schneider Electric USA, Inc. (“Schneider Electric”), Defendant Aerotek, Inc. removes this state-law action brought by former employee, Plaintiff Maria Ramirez, based upon federal question jurisdiction or, alternatively, diversity jurisdiction. *See* 28 U.S.C. § 1441(a).

2. On August 21, 2019, Ramirez filed a lawsuit styled, *Maria Ramirez v. Aerotek, Inc. and Schneider Electric USA, Inc. dba Schneider Electric*, in the 327th Judicial District Court, El Paso County, Texas. *See* Ex. A, Pl.’s Orig. Pet. Ramirez served her lawsuit on Aerotek, Inc.

on September 9, 2019, and Aerotek, Inc. filed its Answer in state court on September 27, 2019.¹ *See* Ex. B, Aerotek Citation & Ex. C, Aerotek Gen. Denial & Defs. Defendant Aerotek, however, files this Notice of Removal within thirty days of service of Plaintiff's Original Petition as required by 28 U.S.C. § 1446(b). *See* Ex. B, Aerotek Citation.

3. In her lawsuit, Ramirez asserts claims for sexual harassment, sex discrimination, and retaliation under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et. seq.* ("Title VII") and the Texas Commission on Human Rights Act, also known as Chapter 21 of the Texas Labor Code ("Chapter 21"). *See* Ex. A., Pl.'s Orig. Pet. at 9 ¶ 41. Ramirez also asserts claims for disability discrimination and retaliation under Chapter 21 and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 *et. seq.* ("ADA"). *See id.* at 9 ¶ 38. Ramirez lastly asserts a Texas state law claim of workers' compensation retaliation under Chapter 451 of the Texas Labor Code ("Chapter 451"). *See id.* at 9 ¶ 40. All of Ramirez's claims are asserted against both Aerotek and co-Defendant Schneider Electric. *See id.* at 9-10 ¶¶ 38-42.

4. Because Ramirez's suit expressly raises two federal causes of action, Defendant Aerotek is entitled to remove her lawsuit to federal court based upon federal question jurisdiction. *See* 28 U.S.C. §§ 1331 and 1441(a). Alternatively, Defendant Aerotek is entitled to

¹ Co-Defendant Schneider Electric was served with Ramirez's state court lawsuit on September 7, 2019, and it filed its Original Answer and Other Matters on September 30, 2019. *See* Ex. D, Schneider Citation; Ex. E, Schneider Answer & Other Matters. This removal notice is filed within 30 days of service upon Co-Defendant Schneider Electric, as well.

remove Ramirez's lawsuit to federal court based upon diversity jurisdiction, as all parties are diverse² and more than \$75,000 in damages is sought.³

5. Regardless of whether original jurisdiction is based on federal question or diversity, this Court also possesses supplemental jurisdiction over Ramirez's state law claims under Chapters 21 and 451 of the Texas Labor Code. *See* 28 U.S.C. § 1367. All of Ramirez's claims arise from the same set of facts and form part of the same case or controversy. Indeed, when describing her causes of action in her Original Petition, Plaintiff identifies no additional or individualized facts that apply. It is thus evident her causes of action are premised on all facts reiterated in her Original Petition, all of which pertain to Ramirez's employment (or assignment) and alleged wrongful termination. *See* Ex. A., Pl.'s Orig. Pet. at 9-10 ¶¶ 38-42.

6. Defendant Aerotek has conferred with co-Defendant Schneider Electric, and pursuant to 28 U.S.C. § 1446(b)(2), co-Defendant Schneider Electric consents to the removal of this action.

7. Venue is proper in the Western District of Texas, El Paso Division, under 28 U.S.C. § 1446(a). The Western District of Texas, El Paso Division, is where the removed action is pending and where a substantial part of the events giving rise to Ramirez's Title VII, ADA, and other state law claims allegedly occurred. *See generally* Ex. A, Pl.'s Orig. Pet.

8. Pursuant to 28 U.S.C. § 1446(a), Aerotek attaches to this Notice of Removal true and correct copies of Ramirez's Original Petition (Ex. A), the Citation issued to Aerotek (Ex. B),

² Ramirez, according to Plaintiff's Original Petition, is a resident of El Paso, Texas. *See* Ex. A, Pl.'s Orig. Pet. at 1 ¶ 2. Defendant Aerotek, Inc. is incorporated in Maryland, and it has its principal place of business in Maryland. *See* Ex. H, Texas Office of the Comptroller Franchise Tax Reports. Defendant Schneider Electric is incorporated in Delaware, and it has its principal place of business in Illinois. *See id.* Plaintiff's Original Petition also identifies both Defendants as being "Foreign For-Profit Corporations." Ex. A, Pl.'s Orig. Pet. at 1 ¶¶ 2-3.

³ Ramirez states in her Original Petition that she is seeking damages in an amount that is "over \$200,000 but not more than \$1,000,000." Ex. A, Pl.'s Orig. Pet. at 11 (Prayer).

Aerotek's General Denial and Defenses (Ex. C), the Citation issued to co-Defendant Schneider (Ex. D), co-Defendant Schneider's Original Answer and Other Matters (Ex. E), true and correct copies of the state court's Docket Sheet (Ex. F), and the State Court Notice of Removal (Ex. G), which constitute all process, pleadings, and orders served to date or will be served to date.

8. Pursuant to 28 U.S.C. § 1446(d), promptly after this Notice is filed with this Court, Aerotek will serve written notice of its filing on Plaintiff and Co-Defendant Schneider. Pursuant to 28 U.S.C. § 1446(d), a true and correct copy of this Notice also will be filed with the clerk of the 327th Judicial District Court of El Paso County, Texas.

II. CONCLUSION & PRAYER

For the foregoing reasons, Defendant Aerotek, Inc. asks the United States Court for the Western District of Texas, El Paso Division, to assume jurisdiction over this action, as a whole, based upon on federal question jurisdiction and supplemental jurisdiction. Alternatively, Aerotek asks this Court to assume jurisdiction over this action, as a whole, based upon diversity jurisdiction and supplemental jurisdiction. Aerotek additionally prays for all other relief to which it may be entitled.

Respectfully submitted,

/s/ Christine E. Reinhard

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**ATTORNEYS FOR DEFENDANT
AEROTEK, INC.**

CERTIFICATE OF CONSENT

The undersigned counsel for Defendant Aerotek, Inc. conferred with counsel for co-Defendant Schneider Electric, Andrew Gould, on October 4, 2019, and Mr. Gould advised that his client consents to the removal of this civil action to this Court.

/s/ Christine E. Reinhard

Christine E. Reinhard

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served *via Court's E-Filing system and First Class Mail* to:

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ATTORNEYS FOR DEFENDANT SCHNEIDER ELECTIRC USA, INC.

on this 4th day of October 2019.

/s/ Christine E. Reinhard
Christine E. Reinhard